

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on January 15, 2003 at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: Rep. Gary Matthews (D)

Members Absent: None.

Staff Present: Alberta Strachan, Committee Secretary
Bart Campbell, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 265; HB 271; HB 126
Executive Action: HB 110; HB 174

HEARING ON HB 265**Opening Statement by Sponsor:**

REP. DON ROBERTS, HD 10, Billings said this bill was an act clarifying that a person is required to hold a denturist license in order to use the word "denturist" or letters "L.D." in connection with the person's name.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 61}

Proponents' Testimony:

Paul Sims, M.D., Butte and Vice President, Montana Board of Dentistry, presented written testimony.

EXHIBIT (buh08a01)

{Tape: 1; Side: A; Approx. Time Counter: 61 - 131}

Mary McCue, Montana Dental Association presented a copy of the statute that sets out the requirements for licensure for denturists. If this were a bill that in any fashion limited the scope of what a denturist could do, they would not be speaking in favor. She indicated the association was not there to restrict the services that a denturist performs. As with the Board of Dentistry, they agree that the use of this term "doctor" is misleading to the public. Denturists are very skilled professionals but the degree they have requires only two years of academic study and an additional year of internship. The Board thinks that by using the Doctor of Denturist Medicine designation it does not imply that they are practicing denturists duties but it does signify that they have a doctoral level degree and the dentists believe this is misleading to the public.

EXHIBIT (buh08a02)

{Tape: 1; Side: A; Approx. Time Counter: 131 - 160}

Opponents' Testimony:

Lee Wiser, Bozeman resident, presented testimony from R. Brent Kandarian, DDM, and he also presented an unofficial report of actions of the American Dental Association.

EXHIBIT (buh08a03);

EXHIBIT (buh08a04)

{Tape: 1; Side: A; Approx. Time Counter: 160 - 263}

Bob Pavlovich, Former member, House of Representatives, said he was testifying on behalf of the senior citizens and members of the International Brotherhood of Electrical Workers. There was a question as to who was going to be on the Board of Dentistry. The Board should be able to take care of their own problems

regarding these issues. There are four dentists on the board, two dental hygienists, two members of the public and only one denturist. He said the denturists do not seem to have much say in the matter of their rules. **Mr. Pavlovich** then stated the bill should be killed.

{Tape: 1; Side: A; Approx. Time Counter: 263 - 291}

Jonathan Motl, Attorney at Law, presented a written copy of his testimony.

EXHIBIT (buh08a05)

{Tape: 1; Side: A; Approx. Time Counter: 291 - 442}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. GALVIN-HALCRO asked Mr. Wiser what DDM means. He answered, "Doctor of Denturist Medicine." She then asked where a denturist advertised other than the yellow pages. He said a denturist could advertise on the radio, newspaper and television. She then asked him if there was any other place a denturist could advertise. US West would not allow anyone to advertise in the US West directory who was not claiming their true profession as the denturists who claimed they had DDM status. **REP. GALVIN-HALCRO** asked if a denturist could belong to the American Dental Association. Her answer was no.

{Tape: 1; Side: A; Approx. Time Counter: 442 - Tape: 1; Side: B; Approx. Time Counter: 7}

Closing By Sponsor:

The Sponsor closed.

HEARING ON HB 296

Opening Statement by Sponsor:

REP. LARRY JENT, HD 29, Bozeman, said once an insurer pays, they can't get reimbursed from the health care provider. This bill covers only payment of medical and hospital bills. It does not cover anything else in the workers' compensation area. It does not cover wages or whether someone is disabled; what it governs is payment of medical bills. The reason this bill is necessary is that a workers' compensation company, just like any insurance company, doesn't always pay the patient bills promptly. In regard to the state fund, most of them do a good job. But in the rare times when they do not, the injured worker and the physician are really in distress. Most of the claimants in workers'

compensation are not represented by lawyers. The only way to get an injured worker back to work is to allow that person the medical care needed to heal or improve the injury and medical rehabilitation cannot be accomplished without appropriate medical care.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 186}

Proponents' Testimony:

Al Smith, Trial Lawyers Association, said right now the insurer pays the \$100, the doctor only gets \$80 minus the \$100 and the attorney receives \$20. Under this bill the doctor gets his full \$100, the attorney gets \$20 and it is the insurer who is responsible for \$120. It is really about accountability and responsibility. Whether the insurer pays the \$100 or the \$120 is totally up to them. If they are using their good claims principle, they know what the law says, they know when they need to pay for their medical benefits.

{Tape: 1; Side: B; Approx. Time Counter: 186 - 235}

Rick Pyfer, Attorney at Law, Helena, said he represented injured workers. He has had three clients just this month who were trying to get their medical bills paid. It is a burden on them because when an injured worker is hurt, the household income goes down and there are not resources in the house to deal with medical expenses. When 20% of the medical bill is not paid, if the attorney takes a fee and litigation occurs, 20% is a pretty modest fee for the time that usually goes into these cases. The fee is billed against the client. If the client pays the medical, the entire amount is not going to be paid by the insurance company.

{Tape: 1; Side: B; Approx. Time Counter: 235 - 311}

Lee Boyer, Department of Agriculture employee, told of the circumstances regarding his wife's injury and the hardships they endured because of medical bills.

{Tape: 1; Side: B; Approx. Time Counter: 311 - 348}

Tom Murphy, Attorney at Law, Great Falls, said he represented injured workers. Everyone who will be affected by this bill is happily going about their life right now. These medical bills are often small amounts. The claimant has no way to fight back. This bill is an attempt to try to secure medical care for people who don't have representation. Approximately 90% of the injured workers that have a medical claim are only seeking the medical care their doctors ordered. The only time this bill becomes operative is if a person first has a physician that says the client needs the care. The insurance company is supposed to provide no-fault coverage for care and often times says no to the

claim. The person then secures an attorney who needs to go to the court and win an order to obtain that coverage. This bill is a medical driven issue. The issues are raised by the treating physicians. There is oversight by the workers' compensation court to decide if it is reasonable and necessary and it balances out the power struggle between the insurance company and the injured workers.

{Tape: 1; Side: B; Approx. Time Counter: 348 - 494}

Pat Melby, Attorney at Law, Montana Medical Association, said they supported this bill. To them it is a simple issue. If an injured worker needs to acquire legal assistance in order to receive compensation from an insurance company who has erroneously or wrongfully withheld payment, the attorney has the ability to acquire the payment through the court.

{Tape: 1; Side: B; Approx. Time Counter: 494 - 500}

Susan Good, Surgical Specialities, Orthopedic Surgeons and Neurosurgeons, said when the physicians she represents have a charge, their cost for doing business is \$100 and the physician will get paid about 70% of that amount. The physicians work very hard to handle the workers' compensation cases but this bill has placed an undue burden on them because these are costs that if they are not assumed by the proper person, in this case the insurer, those costs are passed along to the remaining people holding health insurance.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 28}

Don Judge, Teamsters Local 190, provided written testimony.

EXHIBIT (buh08a06)

{Tape: 2; Side: A; Approx. Time Counter: 28 - 58}

Gene Fenderson, Local Unions, Associate Member Organizations and Individual Members, said they supported this bill. He emphasized the injured workers trying to obtain legal advice on workers' compensation cases. Neither doctors nor lawyers do anything for \$100. That should be kept into perspective when discussing the bills that we are dealing with.

{Tape: 2; Side: A; Approx. Time Counter: 56 - 74}

Opponents' Testimony:

Larry Jones, Liberty Northwest, said they were the largest private workers' compensation carrier in the state of Montana. He litigates workers' compensation cases. He then shared the technical information regarding this bill. Insurers need to have an adjuster with some medical background. There are qualified health care providers, doctors, dentists and physical therapists who have legitimate disputes about the nature of a person's

condition and its cause as to what can be done. That is how these disputes arise. This bill will punish insurers who have acted reasonably. It will punish insurers with legitimate basis to dispute a medical benefit claim. It will only lead to an increase of litigation and claim costs. Employers will pay.

{Tape: 2; Side: A; Approx. Time Counter: 74 - 138}

Nancy Butler, Montana State Fund, said they concur in the remarks made and respectfully request a do not pass on this bill.

{Tape: 2; Side: A; Approx. Time Counter: 138 - 144}

Jacqueline Lenmark, American Insurance Association and Montana Chamber of Commerce, said they rise in opposition to this bill. There is no incentive in the law or in practice for an insurer to delay payment of legitimate claims. It is poor business practice. Insurers on the whole attempt to establish their procedures in the best way possible. There is a very strong deterrent in the law to any insurer to wrongfully pay or delay claims. Insurers have an obligation to the people who have purchased the insurance and are paying the premiums. This bill will necessarily have an effect on workers' compensation rates and if the committee makes the policy decision to pass this bill it should do so acknowledging that there will be an impact on rates that will go back to employers.

{Tape: 2; Side: A; Approx. Time Counter: 144 - 190}

Bob Wilmington, Montana Municipal Insurance Authority, said this bill will change the reasonable standard as to how they operate and it will affect costs.

{Tape: 2; Side: A; Approx. Time Counter: 190 - 197}

Patrice Payne, Farmers Insurance Group and Montana Municipal Insurance Authority, said they were opposed to this bill for reasons stated earlier.

{Tape: 2; Side: A; Approx. Time Counter: 197 - 201}

George Wood, Executive Secretary, Montana Self Insurers Association, said he appears in opposition to this bill. He said he represented the employers.

{Tape: 2; Side: A; Approx. Time Counter: 202 - 220}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MENDENHALL asked **REP. JENT** to explain why this bill did not pass the Senate during the last session. **REP. JENT** said it did not pass the Senate because of the vote. He also said he had not

heard one piece of actual data from an insurance company or technical person with any data to support that conclusion.

{Tape: 2; Side: A; Approx. Time Counter: 220 - 236}

REP. BOOKOUT-REINICKE asked **REP. JENT** asked if the workers' compensation court was only in Helena and the answer was affirmative. **REP. BOOKOUT-REINICKE** asked who pays for injured workers from out of Helena to travel for court. The workers are in need of paying their own way to Helena.

{Tape: 2; Side: A; Approx. Time Counter: 236 - 253}

REP. GALLIK asked Mr. Murphy if, once the local compensation judge says that the medical expense was related to the injury, if it is at that point in time that the insurer must pay. The answer was yes. Because of this, it is termed as wrongful denial of benefits. It is found wrongful by a competent jurisdiction.

REP. GALLIK then said the injured worker's physician says this medical injury and the treatment was due to the worker's employment injury and asked if the insurance companies are overruling this decision.? **Mr. Murphy** said the insurance companies are hiring their own doctors who will give them opinions of that nature to dispute a care like this, or perhaps an adjuster will just unilaterally make the decision to deny the claim because it's such a small amount at issue. The adjuster knows that there is no way this person can mount an offense against the denial. The denial is too small. In the current law it is required that a trial be held.

{Tape: 2; Side: A; Approx. Time Counter: 253 - 301}

REP. WEISS asked Mr. Murphy if an insurance company doctor ever actually examines a patient or if he just works off reports. The answer was it is just based on the medical records without an examination of the claimant. If it is an independent medical examination, then there is an opportunity for that doctor to do an examination.

{Tape: 2; Side: A; Approx. Time Counter: 303 - 320}

REP. MAEDJE asked Mr. Murphy whether the Workers' Compensation Court needs to come to a finding of fact that there has been legitimate medical benefit that was denied and come to a finding of fact that unreasonable conduct occurred in order to award the worker the amount that they are due in the statute under present law. He said under the current law, the workers' compensation court would need to try the case and decide it in the claimant's favor, saying that this is reasonable and necessary medical care relating to that injury, and the court would need to find that the conduct of the insured was unreasonable. **REP. MAEDJE** then said this bill aims to simply have the court adjudicate whether

or not this was a legitimate procedure of treatment rather than have the additional requirement of finding that the insurance company had conducted itself unreasonably. **Mr. Murphy** said "yes".

{Tape: 2; Side: A; Approx. Time Counter: 321 - 390}

Closing By Sponsor:

The Sponsor closed.

{Tape: 2; Side: A; Approx. Time Counter: 391 - 406}

HEARING ON HB 271

Opening Statement by Sponsor:

REP. DAVE GALLIK, HD 52, Helena, said this bill was an act establishing the Livable Wage for Families Act; requiring an employer who receives public financial assistance to provide to an employee a wage that is, at a minimum, equal to either 100 percent of the federal poverty level for a family of four if the employer provides a bona fide employee health insurance plan or 125 percent of the federal poverty level for a family of four if the employer does not provide a bona fide employee health insurance plan; requiring the Department of Labor to monitor approved applications for compliance with the wage requirements; providing penalties for those employers who receive public financial assistance and fail to pay a livable wage.

{Tape: 2; Side: A; Approx. Time Counter: 405 - Tape: 2; Side: B; Approx. Time Counter 80}

Proponents' Testimony:

Linda Gryczan, Montana Women's Lobby, said she was a proponent of this bill because it is a bill that makes good economic sense. It simply states that businesses that receive taxpayer dollars would pay their employees enough so that employees don't need the tax payer dollars. If a business does not offer health insurance they only are required to pay 100% above poverty. The original intention of the minimum wage was that every full-time worker should be able to support a family on their wages. The cost of housing and food and medical care have outstripped the ability of minimum wage workers to support their family. This legislature has enacted far more stringent requirements for families who are supported by welfare.

{Tape: 2; Side: B; Approx. Time Counter: 95 - 107}

Darrell Holzer, Montana AFL-CIO, said he offered strong support for this bill. He said there were two very common denominators.

He supports more and better paying jobs and adequate funding for education.

{Tape: 2; Side: B; Approx. Time Counter: 108 - 136}

Lani Candelora, Montana Catholic Conference, provided written testimony.

EXHIBIT (buh08a07)

{Tape: 2; Side: B; Approx. Time Counter: 136 - 151}

Mary Caferro, Working For Equality and Economic Liberation, said they were an organization of low-income families who work on issues of importance and a livable wage is extremely important. She then asked for support on this bill.

{Tape: 2; Side: B; Approx. Time Counter: 151 - 175}

Betty Whiting, Montana Association of Churches, urged support for this bill out of compassion for the 144,000 people in Montana who are living below the poverty guideline. They support policies and efforts to advance economic justice where all people have the opportunity to meaningful and useful work and just wages and benefits. This bill will help the working poor to meet their responsibilities.

{Tape: 2; Side: B; Approx. Time Counter: 176 - 210}

Bob Ream, Former Member of the House of Representatives, Montana Democratic Party, said there had been a lot of talk about good paying jobs and this bill only talks of poverty jobs. It only applies to employees that have worked for at least 6 continuous months.

{Tape: 2; Side: B; Approx. Time Counter: 211 - 230}

Tom Bilodeau, MEA/MFT, said they stand in strong support of this legislation. He also presented two exhibits on "Cost of Living" and "Northwest Job Gap" as testimony.

EXHIBIT (buh08a08)

EXHIBIT (buh08a09)

{Tape: 2; Side: B; Approx. Time Counter: 231 - 289}

Verner Bertleson, Former Member of the House of Representatives and Montana Senior Citizens Association, said there are a lot of Montana senior citizens who are working at minimum wage and non livable wage. This is an opportunity to move into some higher paying jobs without causing a burden to the state.

{Tape: 2; Side: B; Approx. Time Counter: 290 - 316}

Gene Fenderson, Montana Progressive Labor Caucus, stated he wanted to leave a thought about our society and how the free markets operated in the greatest country in the world. But there

are flaws in the free market. These flaws are the competitive nature of the free markets. Those business people that do want to treat their employees fairly, want them to have a reasonable wage to raise a family, are really put at a disadvantage over those employers who will try to attract workers to the lowest common value to compete in this free market.

{Tape: 2; Side: B; Approx. Time Counter: 317 - 350}

Don Judge, Teamsters Local 190, said they were in strong support of this bill. There are approximately 80 cities and counties throughout the nation that do have living wage ordinances. There are currently no states that have living wage ordinances in effect. Several cities do have a city living wage. It takes the will of the Montana Legislature to do that. The members he represents are not likely to be among those most affected directly by an increase or requiring the passage of this bill.

{Tape: 2; Side: B; Approx. Time Counter: 351 - 428}

Opponents' Testimony:

Brad Griffin, Montana Retail Association, said he was not aware that retailers are not big consumers of public loans or public assistance. His organization requested this bill be tabled.

{Tape: 2; Side: B; Approx. Time Counter: 429 - 500}

Charles Brooks, Billings Area Chamber of Commerce, stated the minimum wage was never intended to be a livable wage. The minimum wage was a floor for those to gain experience. The way to move people from poverty is training, education, skills and teaching them how to be productive.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 62}

Tom Figerelli, Forward Montana, opposes this bill. Students will be required to go into positions as independent contractors. Young people will also be needing to take multiple jobs which would also make it more difficult to further the opportunities for themselves. This bill does not promote the futures of young Montanans, those near the poverty level, small businesses or any other factor in Montana.

{Tape: 3; Side: A; Approx. Time Counter: 75 - 155}

Carl Schweitzer, Bozeman Chamber of Commerce, said only one person fell under the minimum wage at the Chamber of Commerce. He opposes this bill. **{Tape: 3; Side: A; Approx. Time Counter: 156 - 196}**

Margaret Morgan, Helena Area Chamber of Commerce, said they were in opposition of this bill. The resulting effects of job losses from the imposition of a livable wage far outweigh any benefits.

When expenses go up for an employer they have two choices - cut costs or hike prices. Mandated wage hikes hurt low skilled teens and low skilled adults. Communities want to keep those people working. Entry level jobs allow those with no skills to learn skills and earn better pay. Higher wages follow skill development. Wages are a reward for work and initiative, not an entitlement granted by government.

{Tape: 3; Side: A; Approx. Time Counter: 197 - 216}

Informational Testimony:

Riley Johnson, Helena resident

EXHIBIT (buh08a10)

Questions from Committee Members and Responses:

REP. MORGAN asked **REP. GALLIK** about the programs which were offered. He said it was the micro business loan program.

{Tape: 3; Side: A; Approx. Time Counter: 216 - 280}

REP. MENDENHALL asked if the Community Development Block Grant funds will be included in this bill. **REP. GALLIK** said "no" it would not. **REP. MENDENHALL** then asked if this section could be construed to mean the total of any loan. **REP. GALLIK** said he did not think so but would be interested in submitting an amendment to this nature.

{Tape: 3; Side: A; Approx. Time Counter: 281 - 340}

REP. BOOKOUT-REINICKE asked how this bill affected a single mother with one or two children in terms of her poverty level. **REP. GALLIK** said her poverty level would be 100% of the federal poverty level for a family of four.

{Tape: 3; Side: A; Approx. Time Counter: 340 - 368}

Closing By Sponsor:

The Sponsor closed.

HEARING ON HB 126

Opening Statement by Sponsor:

REP. NANCY RICE FRITZ, HD 69, Missoula, said this bill was an act providing for the disposition of civil fines, costs, and fees recovered under certain consumer protection and unfair trade practice laws; providing for the use of the money to fund

consumer protection functions and providing an effective date.
She also supplied amendments.

EXHIBIT (buh08a11)

{Tape: 3; Side: B; Approx. Time Counter: 80 - 110}

Proponents' Testimony:

Steve Bender, Deputy Director, Department of Administration, said the department was offering this bill as a piece of the budget deficit solution. He then explained the sections of the bill.

{Tape: 3; Side: B; Approx. Time Counter: 111 - 134}

Cort Jensen, Attorney at Law, Montana Office of Consumer Protection, said he was a proponent to this bill.

{Tape: 3; Side: B; Approx. Time Counter: 135 - 191}

Opponents' Testimony:

Riley Johnson, Small Businesses in Montana, said he rose in opposition to this bill because it is going against everything business in Montana has been trying to project for decades. One small department is earmarking funds out of the general fund. The budgeting process belongs in the appropriation of monies to the agencies to determine whether these are being properly handled and whether they are necessary.

{Tape: 3; Side: B; Approx. Time Counter: 191 - 222}

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

The Sponsor closed.

{Tape: 3; Side: B; Approx. Time Counter: 396 - 399}

EXECUTIVE ACTION ON HB 110

{Tape: 3; Side: B; Approx. Time Counter: 400 - Tape: 4; Side: A; Approx. Time Counter: 15}

Motion: REP. MAEDJE moved HB 110 DO PASS.

Motion: REP. MAEDJE moved HB 110 AMENDMENTS (11001) DO PASS.

Discussion:

Mr. Campbell explained the amendments.

Motion/Vote: REP. MAEDJE moved HB 110 AMENDMENTS (11001) DO PASS. Motion carries unanimously.

Motion/Vote: REP. MAEDJE moved HB 110 DO PASS AS AMENDED. Motion carried 18-0.

EXECUTIVE ACTION ON HB 174

{Tape: 4; Side: A; Approx. Time Counter: 16 - 25}

Motion: REP. BERGREN moved HB 174 DO PASS.

Motion: REP. MORGAN moved HB 174 AMENDMENTS (17401) DO PASS.

Discussion:

Mr. Campbell explained the amendments.

Vote: Motion to amend Amendments (17401) do pass. Motion carried 18-0.

Motion/Vote: REP. BERGREN moved HB 174 DO PASS AS AMENDED. Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:40 A.M.

REP. JOE MCKENNEY, Chairman

ALBERTA STRACHAN, Secretary

JM/AS

EXHIBIT (buh08aad)